

Wreckers and car carriers sold in Illinois to Indiana residents are not "cargo trailers" eligible for the drive-away permit exemption. See 35 ILCS 120/2-5(25-5). (This is a GIL.)

August 22, 2006

Dear Xxxxx:

This letter is in response to your letter dated June 7, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We are in receipt of your Bulletin FY2006-11 in regards to Indiana Purchasers. We are a dealer in the State of Illinois. We sell Car Carriers and Wreckers. Since July 2005, we have collected 6% Indiana sales tax as per the reciprocal agreement.

As we read over your Bulletin FY2006-11, we are unsure if we should continue to collect this 6% Indiana sales tax. I called your tax help phone line. The representative that I talked to was unsure what to tell me. She advised that it would be best to write your department.

A car carrier/wrecker is permanently attached to an incomplete chassis. The car carrier/wrecker cannot be removed. It is designed to carry property/vehicles. It is on a vehicle that has a gross vehicle weight of at least 2,200 pounds. The car carrier/wrecker does not have motive power, but chassis that it is mounted on does have motive power. A drive away/transit tag is issued to the purchaser.

My question to you is, 'Do Car Carriers and Wreckers qualify as 'Cargo Trailers'?

Please review this information and advise our company as to the state's decision on this matter. We just want to be sure that we are following proper procedure.

If you need further information, please feel free to call me. Your immediate clarification in this matter would be greatly appreciated as we want to comply with this July 1 2006 ruling.

## **DEPARTMENT'S RESPONSE:**

Paragraph (25) of Section 2-5 of the Retailers' Occupation Tax Act provides an exemption from the tax for ". . . a motor vehicle sold in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his or her home state." (35 ILCS 120/2-5(25))

Paragraph (25-5) of Section 2-5 of the Retailers' Occupation Tax Act, created by Public Act 93-1068 and effective on January 15, 2005, provides in part that "[t]he exemption under [paragraph] (25) does not apply if the state in which the motor vehicle will be titled does not allow a reciprocal exemption for a motor vehicle sold and delivered in that state to an Illinois resident but titled in Illinois." (35 ILCS 120/2-5(25-5)). Indiana is such a state.

Based on a change in Indiana law, in June 2006 Illinois Department of Revenue Informational Bulletin FY 2006-11 notified retailers who file Form ST-556, Sales Tax Transaction Returns, that effective July 1, 2006 recreational vehicles and cargo trailers meeting certain requirements that are sold by Illinois dealers, with delivery in Illinois but titling and registration in Indiana, are exempt from Retailers' Occupation Tax if a drive-away permit is issued or the Indiana purchaser has vehicle registration plates to transfer to the vehicle upon returning to Indiana.

Informational Bulletin FY 2006-11 defines a "cargo trailer" as "a vehicle without motive power; designed for carrying property; designed for being drawn by a motor vehicle; and having a gross vehicle weight rating of at least 2,200 pounds." Wreckers and car carriers do not meet the definition of "cargo trailer." To be eligible for the exemption as a "cargo trailer", the vehicle for which the drive-away permit is issued must be a vehicle without motive power. In the case of wreckers and car carriers, the vehicle for which the drive-away permit is issued, the wrecker or car carrier, does have motive power.

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore  
Associate Counsel

SJM:msk